



ZONING BOARD OF APPEALS
JULY 12, 2022
REGULAR MEETING
CITY OF BRIDGEPORT

45 Lyon Terrace
Bridgeport, CT 06604
(203) 576-7217 Phone
(203) 576-7213 Fax

ATTENDANCE: Ira Nachem, Chair; Robin Shepard, Secretary; Tiheba Bain, Mary Gaits, Paul Miller

OTHERS: Paul Boucher, Zoning Department; Jackson Strong, Design Review Coordinator.

CALL TO ORDER

Commissioner Nachem called the meeting to order at 6:10 p.m. A quorum was present.

Commissioner Nachem reviewed the process with those present. He noted that in order for an application to be approved, four of the five Commissioners will have to approve it.

C1 – RE: 9, 25, 35 ISLAND BROOK AVENUE – Appealing under Sec. 11.140 of the Zoning regulations of the City of Bridgeport and Sec. 8-7 of the CT General Statutes whereby it is alleged the Zoning Administrator erred in his decision not to process an application for a Certificate of Zoning Compliance for a nonconforming use in the I zone and coastal area.

Mr. Buckley of Comstock Road, came forward and greeted the Commissioners. He stated that he was a recently retired Zoning Officer. He then distributed a document regarding his decision. The item before them was challenged before he retired.

Mr. Buckley then gave a brief overview of the situation and noted that the Zoning Regulations changed on January 1, 2022. He explained that under the new rules, the applicant would be filing an application for a Special Permit with the Planning and Zoning Commission.

Atty. Pat Sullivan came forward and said that she was working with Architecture Stone Group, LLC. She said that the property was a non-conforming use and they were requesting to continuing that non-conforming use. They submitted their application to Zoning in February.

The Architecture Stone Group, began leasing the property in 2016. The previous tenant was there from 1998 to 2016. The previous tenant, Ferguson Pipe, used the property in an intense manner.

Atty. Sullivan said that this use would be the best use of the property and would include outdoor storage. She then proceeded to list a number of similarities with the previous business and requested that the Board grant the appeal.

Mr. Tom Astrum from Architectural Stone came forward and greeted the Commissioners. He said that there were three partners in the group. He said that after reviewing the proposed lease, they rented the property in 216. He spoke about how he was contacted in 2016 by Mr. Perez three days after opening. He did not know that there was a problem until he received a letter from the City in 2021. He pointed out they were now five or six years down the road and he had followed the lawyers' advise. Packets of recent photos were passed out, along with a site plan.

Mr. Astrum noted that he had received a major tax break from the State of Connecticut because they are manufacturing stone. He explained that they had been asked to clean up the property and move the sand to the rear of the property. He then gave a brief summary of what the various photographs showed including the neighboring properties.

Mr. Astrum said that it was his neighbor that had filed the complaint. He said that the neighbor was complaining that they were creating more truck traffic, but noted that the neighbor owns a number of large trucks. He said his business was trying to be good neighbors and planned to invest more money in the property.

Mr. Astrum said that he had worked for O&G and Gault in the past. He treats his customers right. He thanked the Commissioners for their time and reminded them that this was a continuation of use.

Commissioner Gaits said that their concerns was about HVAC and silica in the air. Mr. Astrum said that the stone cutting was done off site. The discussion moved to Friable material. It is wholesale and retail with an existing product.

Atty. Charles Willinger of Willinger, Willinger and Bucci came forward to speak in opposition. He said that he was representing 10 Island Brook business owners who support the Zoning Officer's decision not to issue the certificate. He indicated that Mr. Valentino, who is the owner of the neighboring property has been there for 26 years.

Atty. Willinger then went on to list the various other business owners in the neighborhood. Their properties are in pristine conditions and they pay tens of thousands of dollars in taxes. They do not have outside storage. They have all been adversely affected by the Architectural Stone Group for the last six years.

The parcel is in a flood zone, an inland wetlands area and a Coastal Area Management Zone. Atty. Willinger said that almost two years ago, they were issued a cease and desist. They came before the ZBA and appealed but their appeal was denied. The Architectural Stone Group is

claiming that they are using the same type of business as the previous tenant, but they are not. There is friable material on the property.

Atty. Willinger then distributed a packet of materials to the Commissioners. He noted that Exhibit A was the new Zoning Regulations. He noted that compliance with the Coastal Area Management was very critical along with the soil erosion. This impacts Public Health, Safety and Welfare. He noted that the materials have to be set back 75 feet from the street and have fencing. The new regulations require measures to protect the neighborhood and the environment. He said that the use of the Master Plan was to regulate adverse impacts on the neighborhoods.

Atty. Willinger said that the business was trying to circumvent the issue by claiming that Ferguson Pipes did this and they wished to continue the practice. He added that Ferguson Pipe had just stored some pipes and pipe fittings, not open materials. If the current use is different in kind and type, then it is not a continuation of use according to the Connecticut State law.

Atty. Willinger said that they had researched the property for 70 years and none of the various businesses had outside construction material storage or friable materials on site. He then directories everyone to turn to Exhibit B, which contained photos of Ferguson Pipe and the pipes and fittings stored outside.

Atty. Willinger then requested the Commissioners to turn Exhibit C and provided a description of the photos, including stone dust on vehicles and the roofs of nearby buildings. He noted that one of the photos had been taken on July 10th and the construction materials were uncovered.

Atty. Willinger displayed a site plan and noted that there was sand, mulch, woodchip and a number of other uncovered materials. Large trucks come in and dump the materials. This is followed by a front end loader moving the materials into the bays. The material is then moved into the customers' truck. This business does not belong in Bridgeport.

Atty. Willinger then directed the Commissioners to Exhibit D, which was an affidavit from Mr. Astrum about the business. He said that Ferguson Pipe was a major company and having someone from Ferguson Pipe to testify as to whether their business was the same as Architectural Stone.

Atty. Willinger distributed a letter from Belle Maison. The owner apologized for not being present and went on to state that they had put plans to build their headquarters in Bridgeport on hold because of the adverse impact of Architectural Stone has had on the area.

Mr. Gino Tarentino came forward and spoke about how Architectural Stone had negatively impacted his business. Most of his employees are Bridgeport residents who walk or bike to work. The yard and driveway are not paved and there is dust that as clogging some of his systems. There is sand on his roof, which never happened before. His tenants complain that when the

stones are dumped because it sounds like a bomb is going off. The dust covers his trucks, along with the vehicles that his tenants and others have.

Mr. Tarentino said that about a year ago, Mr. Astrum had cut stone on his property, but stopped when they had to present their case to the ZBA.

Mr. Tarentino's property value and the values of his neighbors' property have decreased. He spoke about how there was a large pile of dirt that the police had asked them to clean up, which they did even though it was not their dirt.

He said that he used to live in Bridgeport and continues to own property in Bridgeport. However, this business is driving his tenants out. He asked the Commissioners to consider this along with the fact that Island Brook runs right behind the property.

Atty. Willinger distributed a letter from Total Energy Connections. He reminded the Commissioners that the only property that they must consider in their decision is the one that Architectural Stone occupies.

Atty. Willinger then referred the Commissioners to Exhibit F in his information packet. He concluded that if the regulations were not met, then the Zoning Official's decision should be upheld.

Commissioner Nachem asked if there was anyone who was present to speak in favor. No one came forward.

Commissioner Nachem asked if there was anyone present who wished to speak in opposition to the Zoning Official's decision.

Mr. Coleman, the Deputy Director of Office of Economic Development came forward and spoke about how the use of the property changed along with the regulations. He noted that the City does not zone for what it currently is, but what they want to be. He listed a number of businesses that had come to Bridgeport recently.

Mr. Coleman said that the comments regarding the tax break was not indicative of what type of business was operating at the site.

Council Member Pereira came forward and stated that everyone that has spoken so far regarding this case were not Bridgeport residents and the hearing had gone on for over an hour and forty five minutes on one item. She said that the Commission should be respectful of people's time.

There was no one else present from the public who wished to address the Commission at this time.

Commissioner Nachem closed the Public Comment period and requested the rebuttal presentation be given.

Atty. Sullivan came forward and stated for the record that she was a Bridgeport resident and her business is in Bridgeport.

She noted that Mr. Tarentino claimed that Architectural Stone was responsible for the dust, but there is no way to prove this. She reminded everyone that there were dump trucks that had sand and salt in their truck beds, but nothing was said about that.

Mr. Astrum said that they were doing everything possible to mitigate the dust.

Commissioner Bain then said that the Commissioners were there to listen to the applicants and their attorneys present their cases.

Commissioner Gaits said that right now Bridgeport has a problem with air pollution. There are two schools nearby. The Coastal Area Management permit was not applied for and there were other issues that needed to be addressed.

**** COMMISSIONER GAITS MOVED TO DENY AGENDA ITEM C1 – RE: 9, 25, 35 ISLAND BROOK AVENUE – APPEALING UNDER SEC. 11.140 OF THE ZONING REGULATIONS OF THE CITY OF BRIDGEPORT AND SEC. 8-7 OF THE CT GENERAL STATUTES WHEREBY IT IS ALLEGED THE ZONING ADMINISTRATOR ERRED IN HIS DECISION NOT TO PROCESS AN APPLICATION FOR A CERTIFICATE OF ZONING COMPLIANCE FOR A NONCONFORMING USE IN THE I ZONE AND COASTAL AREA FOR THE FOLLOWING REASON:**

1. TO OPERATE THE EXISTING BUSINESS, THE APPLICANT NEEDS APPROVALS FROM THE PLANNING AND ZONING COMMISSION FOR A SPECIAL PERMIT, SITE PLAN REVIEW AND A COASTAL SITE PLAN REVIEW BEFORE A CERTIFICATE OF ZONING COMPLIANCE OR BUILDING PERMIT(S) CAN BE ISSUED.

**** COMMISSIONER MILLER SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

C-2 (#3) 1136-1160 Main St. – Petition of Office of Planning & Economic Development (OPED) – Seeking a Certificate of Location Approval to establish a beer garden use and the issuance of a full-service liquor permit with outdoor seating and bocce ball courts and seeking variances of Sec. 3.150.3 to permit the use of mulch as ground cover and reduce the coverage of 45% to 15% in the DX1 zone. (WITHDRAWN on 06/17/22)

NEW BUSINESS

1. 320 Railroad Ave. – Petition of RR & M 11 Realty, LLC – Seeking a use variance of Sec. 4.10.3. Also, seeking variances of the minimum landscaping and maximum site coverage under Sec. 3.160.3 and parking surfaces under sec. 8.20.3E to permit the establishment of an open storage yard for tractor cabs and trailers in the DX2 zone. (WITHDRAWN on 07/11/22)

2. 537-539 Lafayette St. – Petition of Javier Ceja – Seeking a use variance under Sec. 4.10.3 and also seeking variances of the maximum site coverage and minimum landscaping requirements under Sec. 3.160.3 to permit the establishment of an open contractor’s storage lot for commercial vehicles; associated equipment and firewood in the MX1 zone.

Mr. Ceja came forward and greeted the commission. He said that he had taken over the property in 2020 and it was an empty lot. The City had to pay landscapers to come and take care of the property. He said that he would like to have a landscapers store their trucks on the parcel. In 2020, the old zoning laws allowed this. The City of Bridgeport is their neighbor. He explained that one of the photos was actually owned by the City and is not his property. He reminded them that he was a small business owner and paying his taxes.

Mr. Jackson Strong came forward and said that they had reviewed the application regarding the storage of commercial vehicles. It is in the DX-2 zone and based on the current zoning regulations, it fell under heavy industrial use for storage of equipment. He noted that there was a conflict regarding mitigating noise. Mr. Strong made a number recommendations to the Commissioners.

Commissioner Gaits asked if there was some hours of operation. She was told that the vehicles would be arriving in the morning and returning the trucks around 5 p.m.

Commissioner Nachem asked if there was anyone present who wished to speak in favor of the item. Ms. Cheyenne Valentine came forward and said that she was in favor of the variance.

Commissioner Nachem asked if there was anyone present who wished to speak in opposition to the item.

Mr. Bill Coleman, the Office of Economic Development Deputy Director, came forward and said that Mr. Ceja was a good entrepreneur to have in Downtown. He said that this was a different situation since they had just passed the new zoning regulations. The goal is to have downtown Bridgeport to grow. This is not a commercial parking lot. He said that they do not want to interject a contractor in the downtown area. He said that while the plan was expedient, but not par at of the vision for downtown Bridgeport.

Mr. Deja's came forward and displayed the condition of the City of Bridgeport's property in downtown Bridgeport. And what's his property looked like when he took it over.

**** COMMISSIONER BAIN MOVED AGENDA ITEM #2 – 537-539 LAFAYETTE ST. – PETITION OF JAVIER CEJA – SEEKING A USE VARIANCE UNDER SEC. 4.10.3 AND ALSO SEEKING VARIANCES OF THE MAXIMUM SITE COVERAGE AND MINIMUM LANDSCAPING REQUIREMENTS UNDER SEC. 3.160.3 TO PERMIT THE ESTABLISHMENT OF AN OPEN CONTRACTOR’S STORAGE LOT FOR COMMERCIAL VEHICLES; ASSOCIATED EQUIPMENT AND FIREWOOD IN THE MX1 ZONE WITH THE FOLLOWING REASONS:**

TO DENY:

- **INAPPROPRIATE LOCATION FOR THIS TYPE OF USE.**
- **CLOSE-PROXIMITY TO THE AMPHITHEATER VENUE.**

TO APPROVE:

- **ALLOWS A SMALL BUSINESS TO OPERATE.**
- **THE LOCATION IS NOT VISIBLE FROM THE AMPHITHEATER VENUE.**
- **APPLICANT AGREED TO SCREEN THE PROPERTY FROM THE AMPHITHEATER VENUE AND RESIDENTIAL PROPERTY.**

**** COMMISSIONER NACHEM SECONDED.**

**** THE MOTION FAILED TO PASS WITH THREE (3) IN FAVOR (GAITS, MILLER AND SHEPARD) AND TWO (2) OPPOSED (BAIN AND NACHEM).**

3. 1827 Boston Ave. – Petition of Daniel Ghazal – Seeking a variance of the minimum rear buffer requirement under Sec. 3.170.5.D(3). Also, seeking variances of the minimum stacking parking spaces for a coffee shop under Table 8.4; the limit of one (1) property access per 120-feet of street frontage and the elimination of the bypass lane requirement under Sec. 8.50.3 to permit the establishment of a drive-thru facility at the existing coffee shop in the MX2 zone.

Atty. Raymond Rizzo came forward and distributed photos and documents to the Commissioners. He said that he believed that they were submitting an application that would improve on the 2014 application. He showed the Commissioners a site map and indicated where the curb cut was located. They were proposing to reduce the width of the curb cut and put in sidewalks and a grass buffer.

Atty. Rizio said that the staff had recommended reducing the curb cut on Boston Ave and having the exit on Carnegie Avenue. He explained that the residence behind the store is actually a UI substation. This is a commercial use, so the 70 foot rear buffer would not apply. He distributed a site map that shows the UI substation. All of the other residences are more than 70 feet away.

Atty. Rizio said that they were asking for a variance for the bypass lane, since they do not have enough property.

The final variance would be reducing the number of parking spaces from 8 to 6. They have adapted this to the new regulations. He noted that the Department of Transportation had already approved the plan and distributed a letter from the DOT about this.

Atty. Rizio said that he had already spoken to their neighbor and he read a letter from Jack Martino in support of the drive thru.

Atty. Rizio said that it would be consistent with the Master Plan, would clean up the property and remove all the queueing would happen on Carnegie. He said that the hardship was the size of the parcel. He said that he believed it would be a great improvement.

Commissioner NACHEM asked if there was anyone present who wished to speak in favor of the item. No one came forward.

Commissioner NACHEM asked if there was anyone present who wished to speak against the application.

Council Member PEREIRA came forward and said that on page 2, of report the CGS limits the hardship with the parcel, not the structure. She said that the drive through was not a hardship to the parcel.

She said that former Judge Lopez and her husband had given the ZBA a tutorial on hardships at the last ZBA meeting.

Council Member PEREIRA stated that Boston Avenue was one of the most travelled roads in the state and this would only add to the traffic on that road. There was no hardship there. The law is the law. The law states that the hardship is with the land, not the building.

Commissioner NACHEM asked if there was anyone else present who wished to speak against the application. There was no response.

Atty. Rizio said that the hardship was for the Commissioner to determining when there is a pre-existing lot with a pre-existing building. He said that there were no parking requirements in the City at this time.

Atty. Rizio said that the DOT has already reviewed the plan and given their approval. He submitted a letter from the DOT dated December 2021 regarding this. The NRZ has approved this and they have heard from NOAH. The property on the right has a screened fence. The UI substation is not going away and it will not change into a residence.

It is a narrow lot with a small building. The Commission has previously approved this plan.

**** COMMISSIONER MILLER MOVED TO APPROVE AGENDA ITEM #3 1827 BOSTON AVE. – PETITION OF DANIEL GHAZAL – SEEKING A VARIANCE OF THE MINIMUM REAR BUFFER REQUIREMENT UNDER SEC. 3.170.5.D(3). ALSO, SEEKING VARIANCES OF THE MINIMUM STACKING PARKING SPACES FOR A COFFEE SHOP UNDER TABLE 8.4; THE LIMIT OF ONE (1) PROPERTY ACCESS PER 120-FEET OF STREET FRONTAGE AND THE ELIMINATION OF THE BYPASS LANE REQUIREMENT UNDER SEC. 8.50.3 TO PERMIT THE ESTABLISHMENT OF A DRIVE-THRU FACILITY AT THE EXISTING COFFEE SHOP IN THE MX2 ZONE WITH THE FOLLOWING CONDITIONS:**

- 1. THE PETITIONER SHALL FILE AN APPLICATION FOR THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE AND A BUILDING PERMIT WITH REVISED SITE PLANS.**
- 2. CONSOLIDATE THE TWO (2) EXISTING ACCESS DRIVEWAYS ON CARNEGIE AVENUE TO ONE (1) TO IMPROVE TRAFFIC FLOW.**
- 3. INSTALL A LANDSCAPING STRIP ON CARNEGIE AVENUE.**
- 4. REFER TO THE SITE PLAN ON PAGE 7 OF THE DESIGN REVIEW COORDINATOR’S REPORT DATED 06/028/22 FOR GUIDANCE (ENCLOSED).**

FOR THE FOLLOWING REASONS:

- 1. IRREGULAR-SHAPED LOT; POSITION AND LOCATION OF LOT ARE ALL VALID HARDSHIPS.**

**** COMMISSIONER GAITS SECONDED.**

**** THE MOTION PASSED WITH FOUR (4) IN FAVOR (GAITS, MILLER SHEPARD AND BAIN) AND ONE (1) OPPOSED (NACHEM).**

RECESS

Commissioner Nachem announced a recess at 9:11 p.m. He reconvened the meeting at 9:20 p.m.

4. 66 NORTHFIELD STREET – Seeking a variance of the prohibition of the reduction in size of a fully conforming lot under Sec. 3.120.4 to establish two (2) undersized

nonconforming lots. Also, seeking a variance of the minimum lot area and width of the new lot to construct a 1-family dwelling in the N4 zone.

Atty. Rizio came forward and said this applications had been presented under the old regulations. There were two side by side non-conforming lots. He explained that the new regulations automatically merged the lots for an area of 7,000 square feet. He said that his client never intended to have one lot and the existing building does not cross the previous lot.

Atty. Rizio said that the new lots would be consistent with the Master Plan.

Commissioner Nachem asked why this was coming before the Commission. Atty. Rizio said that it had not been recorded in time.

Mr. Strong came forward and said that they had reviewed the petition. The Zoning deficiencies that were noted should be followed when submitting to Planning and Zoning. He then said that they address any zoning deficiencies and provide the details on the site plan.

Commissioner Nachem asked if there was anyone present who wished to speak in favor of the item.

Ms. Sylvia Eagleton came forward and said that she did not have a problem with this proposal.

Atty. Rizio said that he had a petition in favor of the application to submit. Mr. Boucher said that he already had the copies.

Commissioner Nachem asked if there was anyone present who wished to speak against the application. There was no response.

**** COMMISSIONER BAIN MOVED TO APPROVE AGENDA ITEM 66 NORTHFIELD STREET – SEEKING A VARIANCE OF THE PROHIBITION OF THE REDUCTION IN SIZE OF A FULLY CONFORMING LOT UNDER SEC. 3.120.4 TO ESTABLISH TWO (2) UNDERSIZED NONCONFORMING LOTS. ALSO, SEEKING A VARIANCE OF THE MINIMUM LOT AREA AND WIDTH OF THE NEW LOT TO CONSTRUCT A 1-FAMILY DWELLING IN THE N4 ZONE WITH THE FOLLOWING CONDITIONS:**

- 1. DEEDS AND A-2 SURVEYS OF EACH NEW LOT SHALL BE FILED ON THE LAND RECORDS OF THE CITY OF BRIDGEPORT.**
- 2. A PRIVACY FENCE SHALL BE INSTALLED FROM STONEWALL TO SIDEWALK. (REFER TO SECTION 7.140 “GENERAL FENCE REGULATIONS” REGARDING 4-FEET MAXIMUM HEIGHT FOR 1ST 20- FEET; 6-FEET MAXIMUM HEIGHT BACK TO STONEWALL AND ADDITIONAL FENCE STANDARDS AND TYPES.)**

3. PETITIONER SHALL FOLLOW THE ZONE DEVELOPMENT STANDARDS FOR THE N4 ZONE, SECTION 3.120 IN THE CONSTRUCTION OF THE NEW RESIDENTIAL 1-FAMILY DWELLING.

FOR THE FOLLOWING REASONS:

THE PETITION AS APPROVED CONFORMS WITH OTHER USES IN THE NEIGHBORHOOD AND WILL HAVE NO ADVERSE IMPACT ON THE IMMEDIATE AREA.

**** COMMISSIONER GAITS SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

5. 205 BROAD STREET (aka 68 UNIVERSITY AVENUE) – Seeking a variance of the maximum height under Sec. 3.140.6 to permit the construction of a 4-story high school with an auditorium and gymnasium, which exceeds the maximum height requirement by 14’-8” in the P2 zone.

Mr. Joe Aliotta of Perkins Eastman came forward and greeted the Commission. He displayed a rendering of the high school facade. He explained that each floor was 14 feet 8 inches because they have to put in sprinklers, duct work, lighting and other equipment in the area between the ceiling and the next floor. This will make the maximum height of the building greater than the maximum height requirement.

Commissioner Nachem asked if it would be a Leeds building. Mr. Aliotta said that it would be a Leeds Silver building.

Commissioner Nachem asked if there was anyone present who wished to speak in favor of the item. There was no response.

Commissioner Nachem asked if there was anyone present who wished to speak against the application. Hearing none, Commissioner Nachem closed the hearing on 205 Broad Street.

**** COMMISSIONER SHEPARD MOVED TO APPROVE AGENDA ITEM 5. 205 BROAD STREET (AKA 68 UNIVERSITY AVENUE) – SEEKING A VARIANCE OF THE MAXIMUM HEIGHT UNDER SEC. 3.140.6 TO PERMIT THE CONSTRUCTION OF A 4-STORY HIGH SCHOOL WITH AN AUDITORIUM AND GYMNASIUM, WHICH EXCEEDS THE MAXIMUM HEIGHT REQUIREMENT BY 14’-8” IN THE P2 ZONE FOR THE FOLLOWING REASON:**

THE HEIGHT VARIANCE IS NECESSARY TO MEET THE BUILDING CODE HEATING AND VENTILATION EQUIPMENT CLEARANCE AND TO PROVIDE SPACE FOR SERVICE/MAINTENANCE WORK.

- ** COMMISSIONER MILLER SECONDED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

OTHER BUSINESS

There was no additional business to consider at this time.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE BOARD.

There were no other matters to consider at this time.

APPROVAL OF MINUTES

- ** COMMISSIONER GAITS MOVED THE MINUTES.**
- ** COMMISSIONER NACHEM SECONDED.**
- ** THE MOTION TO APPROVE THE MINUTES AS SUBMITTED PASSED UNANIMOUSLY.**

ADJOURNMENT

- ** COMMISSIONER SHEPARD MOVED TO ADJOURN.**
- ** COMMISSIONER MILLER SECONDED.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:41 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services